

REMARKS

Claims 23-29, 51, and 52 are pending. All claims stand rejected for lack of enablement and indefiniteness. Claim 23 has been amended for clarity by deleting extraneous text in group Y.

Rejections under 35 U.S.C. § 112, first paragraph

The Office has rejected the claims for lack of enablement with respect to solvates. Without agreeing with the Office's position that the previous scope of claim 23 was not fully enabled, Applicants have amended claim 23 to recite the subject matter indicated as enabled. Applicants reserve the right to pursue cancelled subject matter in this or a continuing application.

As the claims are now directed to subject matter acknowledged by the Office as being enabled, the rejection may be withdrawn.

Rejections under 35 U.S.C. § 112, second paragraph

The Office has rejected the claims for indefiniteness for reciting 5 or 6 membered heterocyclic, oxyheterocyclic, and thioheterocyclic rings in the alternative, as the Office has interpreted the term heterocyclic ring to encompass the terms oxyheterocyclic ring and thioheterocyclic ring. Applicants traverse the rejection as the term heterocyclic ring does not encompass the terms oxyheterocyclic ring and thioheterocyclic ring.

With respect to oxyheterocyclic ring and thioheterocyclic ring, the specification at page 56, lines 20-26 reads:

As used herein and unless otherwise stated, the terms "C1-18 alkoxy", "C3-10 cycloalkoxy", "aryloxy", "arylalkyloxy", "oxyheterocyclic ring", "thio C1-7 alkyl", "thio C3-10 cycloalkyl", "arylthio", "arylalkylthio" and "thioheterocyclic ring" refer to substituents wherein a C1-18 alkyl radical, respectively a C3-10 cycloalkyl, aryl, arylalkyl or heterocyclic ring radical (each of them such as defined herein), are attached to an oxygen atom or a sulfur atom through a single bond, such as but not limited to methoxy, ethoxy, propoxy, butoxy, thioethyl, thiomethyl, phenoxy, benzyloxy, mercaptobenzyl and the like. (Emphasis added)

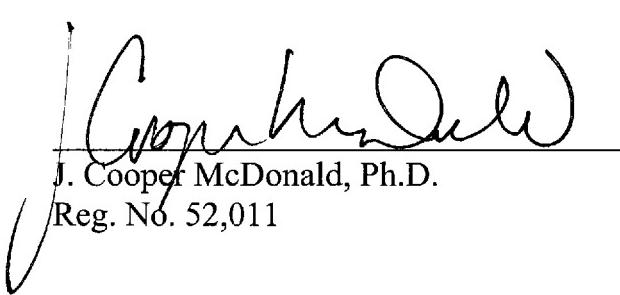
Thus, an oxyheterocyclic ring has the structure –O-heterocyclic, and a thioheterocyclic ring has the structure –S-heterocyclic. The prefixes “oxy” and “thio” in this instance refer to an atom bound to a heterocyclic ring rather than an atom making up a part of the heterocyclic ring. Accordingly, the terms heterocyclic ring, oxyheterocyclic ring, and thioheterocyclic ring, as recited in claim 23, are exclusive of one another. The rejection should therefore be withdrawn.

CONCLUSION

Applicants submit that the claims are in condition for allowance, and such action is respectfully requested. If there are any charges or credits, please also apply them to Deposit Account No. 03-2095.

Respectfully submitted,

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